

DJW/mat

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

WYANDOTTE NATION,

Plaintiff,

v.

No. 01-2303-CM

CITY OF KANSAS CITY, KANSAS et al.,

Defendants.

ORDER

By Order dated August 29, 2002 (doc. 125), the Court stayed all proceedings in this matter until pending motions related to a second amended complaint and certification of a defendants' class were resolved. On April 25, 2003 (doc. 242), the district court judge resolved these pending motions and lifted the stay, with a few stated exceptions regarding claims for money damages.

Although this case was stayed from August 29, 2002 through April 25, 2003, several parties filed motions during the stay. Among those motions are the following:

- (1) Edwynne Harrison's Motion for Service Pursuant to Fed. R. Civ. P. 5(c) (doc. 128);
- (2) Motion of the State of Kansas' for Intervention (doc. 142);
- (3) Joint Motion for Status Conference Hearing with regard to the Magistrate Judge's Report and Recommendation (doc. 155);
- (4) Defendant Alcardio Jackson's Request to Change Residential Address to Action Case Property Address (doc. 229); and
- (5) Motion to Withdraw as Attorneys for Defendant Kester's Merchandising Display (doc. 239).

The Court will address the status of each of these referenced motions in turn.

Edwynne Harrison's Motion for Service Pursuant to Fed. R. Civ. P. 5(c) (doc. 128)

In support of her Motion, Defendant Edwynne Harrison states that because this matter has an unusually large number of individual defendants, it would be judicially economical for the Court to enter an order pursuant to Fed. R. Civ. P. 5(c) directing that service of pleadings by Defendants need only be made upon Plaintiff in this matter and not made as between Defendants. Defendant Harrison proposes that filing with the Court – and serving Plaintiff with – pleadings in this case sufficiently constitutes due notice of such pleadings to all other parties.

As noted above, the Court now has certified a defendants' class, which reduces the number of individual defendants representing their own interests in this lawsuit to a manageable number. Given the basis for the request here was grounded solely on the unusually large number of individual defendants representing their own interests in this matter, and the fact that certification of a defendants' class results in most of these individuals becoming part of the class, Defendant Edwynne Harrison's Motion for Service Pursuant to Fed. R. Civ. P. 5(c) is denied.

Motion of the State of Kansas for Intervention (doc. 142)

On September 26, 2002, the State of Kansas moved to intervene in this matter as a necessary party pursuant to Fed. R. Civ. P. 24(a)(2) and Rule 19(a)(2). Although this Motion was served on all parties who had entered an appearance in this matter as of September 26, 2002, the stay rendered unnecessary the need for any party to file a pleading in response to such Motion. Given these circumstances, the Court will defer ruling on the pending Motion to Intervene filed by the State of Kansas in order to give the parties an opportunity to respond to the Motion. Thus, any party desiring to file a pleading in response to the Motion to Intervene shall do so by **August 12, 2003**. If any responsive pleadings are filed, the State of Kansas may file a pleading in reply by **August 18, 2003**.

Joint Motion for Status Conference Hearing (doc. 155)

This Motion was filed by several parties approximately one week after the Magistrate Judge filed his Report and Recommendation. In this pleading, Movants seek to clarify obligations and responsibilities imposed by the Report and Recommendation upon the parties. Given the specific directives set forth in the subsequent Memorandum and Order issued by the district court judge with regard to class certification issues, the Court hereby denies the Joint Motion for Status Conference Hearing (doc. 155) as moot.

Defendant Alcardio Jackson's Request to Change Residential Address (doc. 229)

In this Motion, Defendant Alcardio Jackson requests the Court change his residential address to the “action case property address.”¹ In support of his request, Mr. Jackson states that “[t]he property involved in the said case is listed as 347 Waverly Avenue, K.C. Ks., and this is the way it should be listed in order to get through my FHA Streamlined Refinancing with J.B. Nutter and Company.”²

Based on the information presented, the Court will deny Defendant Jackson's request. As a preliminary matter, although Mr. Jackson appropriately filed his pleading with the Court, he failed to file a certificate of service verifying he served his pleading on all parties who have entered an appearance in this case as required by D. Kan. Rule 5.1(g). Moreover, Mr. Jackson failed to express in a manner understandable to the Court the precise relief he requests. The Court will not speculate as to the relief requested by Mr. Jackson here. Thus, Defendant Alcardio Jackson's Request to Change Residential Address (doc. 229) is denied without prejudice to refile.

¹See Defendant's Motion at p.1 (doc. 229).

²*Id.*

Motion to Withdraw as Attorney for Defendant Kester's Merchandising Display (doc. 239)

On April 22, 2003, the law firm of McAnany, Van Cleave & Phillips, P.A., by and through attorney Ryan B. Denk, moved this Court to enter an Order allowing McAnany, Van Cleave and Phillips to withdraw as counsel for Defendant Kester's Merchandising Display International, Inc. ("Kester's") (doc. 239). On May 19, 2003, the law firm of Lathrop & Gage L.C., by and through attorneys Douglas R. Dagleish and Mara H. Cohara, filed pleadings entering their appearance as attorneys of record for Defendant Kester's (docs. 271 and 273). Given these circumstances, the Court will grant the pending motion to withdraw.

It is hereby ordered that

- (1) Edwynne Harrison's Motion for Service Pursuant to Fed. R. Civ. P. 5(c) (doc. 128) is denied;
- (2) The Joint Motion for Status Conference Hearing with regard to the Magistrate Judge's Report and Recommendation (doc. 155) is denied;
- (3) Defendant Alcardio Jackson's Request to Change Residential Address to Action Case Property Address (doc. 229) is denied; and
- (4) The Motion to Withdraw as Attorney for Defendant Kester's Merchandising Display (doc. 239) is granted.

It is further ordered that the Court will defer ruling on the Motion to Intervene filed by the State of Kansas (doc. 142) in order to give the parties an opportunity to respond to the Motion. Thus, any party desiring to file a pleading in response to the Motion to Intervene shall do so by **August 12, 2003**. If any responsive pleadings are filed, the State of Kansas may file a pleading in reply by **August 26, 2003**.

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this _____ day of September, 2003.

David J. Waxse
United States Magistrate Judge